THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO: 15788 OF 2006

DATED: 27.12.2007

Between:

Smt. Heera Bai Sharma

Petitioner

And

The Superintendent Engineer,
Assessments, APEPDCL,
Visakhapatnam and others.

Respondents

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THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO. 15788 of 2006

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ORDER:

The petitioner claims to have purchased a building from one R.V.Subba Rao through a registered sale deed. However, she did not make any application for transfer of the service connection in her name and the same continued in the name of the previous owner. While so, on 7.7.2005, the Assistant Divisional Engineer inspected the service connection and having found pilferage energy, has issued a provisional assessment notice vide Lr.No.1093 dated 8.7.2005 and directed the petitioner to pay half of the assessment amount for continuing the power supply. It is stated that the petitioner has paid half of the demanded amount. Thereafter, the petitioner preferred an appeal against the said assessment order before the 1st respondent appellate authority. It is stated that without issuing any notice to her, the appellate authority has passed the impugned proceedings dated 15.4.2006 confirming the orders passed by the 3rd respondent. Aggrieved by the same, the petitioner has filed a set aside petition for setting aside the ex parte orders and to give opportunity to prove her case. While the said petition was pending, the power supply was disconnected. Questioning the said action, the present writ petition is filed.

Learned counsel for petitioner contends that the building in which the service connection in question is installed was purchased by the petitioner and, therefore, she is entitled to defend her case and is also entitled for a right of hearing. Even without looking into the contentions raised by the petitioner in her petition, the appellate authority issued notice to

Sri R.V.Subba Rao, the previous owner and passed the impugned order.

Though the learned standing counsel for the respondent Corporation tried to support the order of the appellate authority, a perusal of the impugned order clearly indicates that the petitioner filed the appeal stating that she purchased the property from the original owner and that she wants to defend her case, but unfortunately the appellate authority instead of issuing notice to the petitioner has issued the notice to the previous owner of the property and passed the impugned order. Therefore, it is clear that the petitioner was not given any opportunity to defend herself. In the circumstances, I am of the opinion that the impugned order is liable to be set aside and it is accordingly set aside. The appellate authority is now directed to issue a fresh notice to the petitioner and pass appropriate orders after giving an opportunity of hearing to her.

Since it is submitted by the learned counsel for the petitioner and also admitted by the respondents in their counter affidavit that the petitioner has already deposited half of the demanded amount and the power supply has been restored, the respondents are directed not to disconnect the service connection till the disposal of the appeal.

The writ petition is accordingly disposed of. No costs.

N.V.RAMANA,J

DATE: 27.12.2007
msv